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# ***Public Utilities Commission of the State of California***

## ***Public Agenda 3143***

***Thursday, December 2, 2004 9:30 a.m.***

***San Francisco, California***

### **Commissioners**

**Michael R. Peevey, President**

**Geoffrey F. Brown**

**Susan P. Kennedy**

**Loretta M. Lynch**

**Carl W. Wood**

*For each agenda item, a summary of the proposed action is included; the Commission's decision may, however, differ from that proposed.*

*Website: <http://www.cpuc.ca.gov>*

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### **Scheduled Commission Meetings 505 Van Ness Avenue, San Francisco**

<i>Ratesetting Deliberative Meeting*</i> <i>Room 5305</i> <i>(1:30 p.m.)</i> <b><i>Closed to the Public</i></b>	<i>Commission Meeting</i> <i>Auditorium</i> <i>(10 a.m.)</i> <b><i>Open to the Public</i></b>
Monday, December 13, 2004 (San Francisco)	Thursday, December 16, 2004 (San Francisco at 9:30 AM)
Monday, January 10, 2005 (San Francisco)	Thursday, January 13, 2005 (San Francisco )
Monday, January 24, 2005 (San Francisco)	Thursday, January 27, 2005 (San Francisco )
Monday, February 07, 2005 (San Francisco)	Thursday, February 10, 2005 (San Francisco)

*\*Ratesetting Deliberative Meeting dates are reserved as noted but will be held only if there are ratesetting matters to be considered and a Commissioner has requested that a Ratesetting Deliberative Meeting be held.*

### ***Matters of Public Interest***

***For the convenience of the public and media representatives, items of widespread public interest will be taken up at the beginning of the meeting.***

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## PUBLIC COMMENT

The following items are not subject to public comment:

- All items on the closed session agenda.
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### Public Comment:

Re 26:

Mary Sessom, San Diego Association of Governments, Lemon Grove, CA

Mitch Mitchell, San Diego Chamber of Commerce, San Diego, CA

Re 45: Lou Filipovich, San Leandro, CA

## Consent Agenda

*Items shown on the Consent Agenda will be taken up and voted on as a group in one of the first items of business of each Commission meeting. Items may be removed from the Consent Agenda for discussion on the Regular Agenda at the request of any Commissioner prior to the meeting.*

### Consent Agenda - Orders and Resolutions

**1**

#### **A99-12-025 - Valencia Water Company.**

[3736]

For approval of its updated Water Management Program as ordered in Commission Resolution W-4154 dated August 5, 1999. This decision awards The Angeles Chapter of Sierra Club \$4,074.18 for its contribution to D01-11-048 and D03-10-063. This proceeding is closed. (Comr Brown - ALJ Patrick)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

Agenda 3137, Item 23 8/19/2004 (Staff);

Agenda 3138, Item 7 9/2/2004 (Staff);

Agenda 3139, Item 3 9/23/2004 (Staff);

Agenda 3141, Item 1 10/28/2004 (Staff);

Agenda 3142, Item 3 11/19/2004 (Staff)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=184944](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=184944)

**2**

#### **Res ALJ 176-3143**

[3995]

Ratification of preliminary determination of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4 and 6.1 of the Commission's Rules of Practice and Procedure.

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=185046](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=185046)

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Consent Agenda - Orders and Resolutions (continued)**3 R98-07-038 - Rulemaking for purposes of revising General Order 96-A regarding informal filings at the Commission.**

[3824]

This interim decision adopts rules revisions that will eventually be codified in General Order 96-B and that concern advice letter filing, service, and suspension.

(Comr Kennedy - ALJ Kotz)

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Quasi-Legislative.*

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

Agenda 3139, Item 7 9/23/2004 (Staff);

Agenda 3140, Item 4 10/7/2004 (Staff);

Agenda 3141, Item 3 10/28/2004 (Kennedy);

Agenda 3142, Item 4 11/19/2004 (Wood)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=182964](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=182964)

**4 C04-03-002 - Carl M. Retzlaff and/or Ronale Case and those residents similarly situated, et al. vs. Regal Mobile Estates, et al.**

[3993]

Mobilehome Park's refund procedure was not a violation of Pub. Util. Code §739.5. The complaint is denied. Case 04-03-002 is closed.

(Comr Brown - ALJ Walker)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Adjudicatory.*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=185014](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=185014)

**5 Res ST-71 - Los Angeles County Metropolitan Transportation Authority (LACMTA).**

[4005]

This Resolution grants LACMTA authority to be exempt from the class B commercial driver's license with a passenger transportation endorsement requirement of General Order 143-B, Section 12.02, specifically for Division Managers and Assistant Division Managers.

Agenda 3142, Item 19 11/19/2004 (Wood)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=182980](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=182980)

**6 Res ST-73**

[4007]

This resolution approves the Consumer Protection and Safety Division's Rail Transit Safety Section final audit report titled, "AIRTRAIN SAFETY AUDIT SAN FRANCISCO INTERNATIONAL AIRPORT," dated October 26, 2004. AirTrain is ordered to implement the recommendations contained in the report and to provide quarterly progress reports to the Rail Transit Safety Section.

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=184423](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=184423)

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Consent Agenda - Orders and Resolutions (continued)**7****Res T-16893**

[4011]

This resolution adopts the California High Cost Fund-A support for the following 17 small Local Exchange Carriers for Calendar Year 2005: Calaveras Telephone Company, California-Oregon Telephone Company, Citizens Telecommunications Company of the Golden State, Citizens Telecommunications Company of Tuolumne, Ducor Telephone Company, Global Valley Networks, Inc., Foresthill Telephone Company, Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Company, Pinnacles Telephone Company, The Ponderosa Telephone Company, Sierra Telephone Company, Siskiyou Telephone Company, Verizon West Coast Incorporated, Volcano Telephone Company, Winterhaven Telephone Company.

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=185125](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=185125)

**8****C00-01-017 - Robert Hambley, for himself and, on behalf of the residents of Los Robles**

[4018]

**Mobilehome Park vs. Hillsboro Properties, a California Limited Partnership, and the City of Novato.**

This decision denies the request of Golden State Mobilehome Owners League, Inc. (GSMOL) for intervenor compensation for its contribution to C00-01-017. GSMOL represented the complainant, Robert Hambly, et al. and also intervened in its own right. GSMOL's cost are not compensable under the intervenor compensation program. This proceeding is closed.

(Comr Brown - ALJ O'Donnell)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code § 1701.1 -- This proceeding is categorized as Adjudicatory.*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=183259](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=183259)

**9****Res TL-19051**

[4020]

This resolution extends for one year the authority granted to vessel common carriers by Resolution TL-19042 to adjust fares and rates up to 15% to offset higher fuel costs.

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

**10****Res W-4508 - Lake Alpine Water Company (LAWC).**

[4032]

This resolution authorizes LAWC to secure an additional Safe Drinking Water State Revolving Fund loan in the amount of \$1,500,000 for water system improvements, and to add a surcharge to water rates. (Advice Letter 68, filed September 13, 2004)

Agenda 3142, Item 26 11/19/2004 (Staff)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=183692](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=183692)

## Consent Agenda - Orders and Resolutions (continued)

**11 (Rev.)****Res T-16900**

[4036]

This resolution revokes competitive carrier authorities held by the following 81 carriers for failure to comply with D93-05-010, Ordering Paragraph 4 and D95-12-056: Utility ID# (U)-5008 Frontier Comms-North Central Region Inc.; U-5123 Oncor Communications, Inc.; U-5133 Donald R. Cook; U-5137 Hendrix Radio Communications, Inc.; U-5178 Scott Communications Inc.; U-5223 Phoenix Network, Inc.; U-5228 L.A. Cellular Long Distance, LLC.; U-5249 Network US, Inc.; U-5260 San Diego Telephone Inc.; U-5273 Communication Telesystems International; U-5279 Saladin-Westco; U-5289 Tel-Save, Inc.; U-5296 Teledebit, L.P.; U-5303 Worldtel Services, Inc.; U-5311 ABS Telephone Company; U-5349 Quest Telecommunications; U-5365 Peoples Telephone Company; U-5371 GST Pacific Lightwave, Inc.; U-5386 Sacramento Valley Limited Partnership; U-5387 Modoc RSA Limited Partnership; U-5424 Telecom United North; U-5433 Access Network Services, Inc.; U-5440 AS Telecommunications, Inc.; U-5473 Bulletins; U-5509 Fibertel, Inc.; U-5511 Intelnet International Corp.; U-5541 Amador Telecommunications, Inc.; U-5556 Winstar Wireless of California, Inc.; U-5572 American Freedom Network (J.D. Svcs); U-5589 Xtracom, Inc.; U-5608 American Telco; U-5623 Deltatel, Inc.; U-5647 Paradigm Communications Corp.; U-5683 Intercontinental Comms. Group, Inc.; U-5694 Axces, Inc.; U-5703 Quintelco Communications; U-5716 Telec, Inc.; U-5722 Momentum Telecom, Inc.; U-5731 Sasscom, Inc.; U-5746 Royal Telecom International; U-5748 Telscape USA, Inc.; U-5770 USA Global Link, Inc.; U-5796 Coyote Metro, LLC; U-5812 American Telecom Inc.; U-5824 Pacific Telehub Network Services Corp.; U-5831 Omniplex Communications Group, LLC; U-5843 USA Tele Corp.; U-5873 International Thinklink Corporation; U-5874 Convergent Comm. Services, Inc.; U-5889 United Services Telephone, LLC; U-5910 Midwest Telecom of America, Inc.; U-5932 Pro Plus Communications Corporation; U-5938 Savecom International USA, Inc.; U-5939 Star Telecom Network Inc.; U-5950 Omniwerx; U-5953 Net.World; U-5957 Phoenix Integration Group; U-5978 One Step Connect, Inc.; U-5981 Freedom Communications Corp.; U-5982 Star Direct Telecom, Inc.; U-5993 Communication Network Services, L.L.C.; U-5994 Star Network Corporation; U-5996 PNV.Net, Inc.; U-6007 Telecom Resources, Inc.; U-6031 Ron Jaworski Communications (Eagle); U-6126 Direct One, LLC (dba Direct One); U-6155 NOSC Corp.; U-6178 Blackstone Communications Company; U-6194 Global West Network, Inc.; U-6210 Columbia Telecommunications, Inc.; U-6211 International Exchange Networks, Ltd; U-6220 Transnet Connect, Inc.; U-6347 Promisevision Technology, Inc.; U-6356 Natel, Inc.; U-6429 Dontel International, LLC; U-6440 Novacom Global, LLC; U-6456 Global Technology Enterprises; U-6485 Sonix4U, Inc.; U-6506 Long Distance Billing Services, Inc.; U-6523 Norte.Com, Inc.; U-6536 Telstar International, Inc.; U-6567 Telecomez Corporation; U-6614 Dynalink Telecom, Inc.; U-6636 KDI Distribution, Inc.

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

11/30/2004 - This revision was not shown on the Agenda mailed to the public.

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=185128](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=185128)

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Consent Agenda - Orders and Resolutions (continued)

- 12**  
[4050] **A99-03-039 - Pacific Gas & Electric Company (PG&E).**  
For consolidation of the review of PG&E's expenditures in 1997 and 1998 to enhance transmission and distribution system safety and reliability pursuant to Section 368(e) of the California Public Utilities Code. This decision awards The Utility Reform Network \$48,255.21 in compensation for its substantial contribution to D04-09-020. This proceeding is closed.  
(Comr Kennedy - ALJ Long)  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=185092](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=185092)
- 13**  
[4052] **C03-07-031 - Pacific Gas and Electric Company vs. Calpine Corporation, CPN Pipeline Company, Calpine Energy Services, L.P., Calpine Natural Gas Company; Lodi Gas Storage, LLC.**  
This decision awards The Utility Reform Network (TURN) \$16,073.26 in compensation for its contribution to D04-07-006. This amount is \$611.25 less than TURN's claimed amount of \$16,684.51 because the decision has slightly reduced the claimed hourly rate for one of TURN's attorneys. This proceeding is closed.  
(Comr Brown - ALJ Thomas)  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Adjudicatory.*  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=183328](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=183328)
- 14**  
[4058] **A04-08-014 - Elias A. Metaferia dba AAA-AbE Express Shuttle.**  
Elias A. Metaferia is authorized to operate as a passenger stage corporation between points in San Francisco, Alameda, Contra Costa, Santa Clara, Solano, Marin, and San Mateo Counties, on the one hand, and San Francisco, Oakland, and San Jose International Airports, on the other hand; and to establish a zone of rate freedom. This proceeding is closed.  
(Exam Clark)  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*
- 15**  
[4059] **A04-06-017 - Biru Kassa Jember dba Super Star Airport Shuttle.**  
Biru Kassa Jember is authorized to operate as a passenger stage corporation between points in San Francisco, Alameda, Contra Costa, Santa Clara, Solano, San Mateo, and Marin Counties, on the one hand, and San Francisco, Oakland, and San Jose International Airports, on the other hand; and to establish a zone of rate freedom. This proceeding is closed.  
(Exam Clark)  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

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Consent Agenda - Orders and Resolutions (continued)

- 16** **A04-07-019 - Tuyen Xuan Tran dba SOS Shuttle.**  
[4060] Tuyen Xuan Tran is authorized to operate as a passenger stage corporation between points in San Francisco, Alameda, San Mateo, Santa Clara, and Santa Cruz Counties, on the one hand, and San Francisco, Oakland, and San Jose International Airports, on the other hand; and to establish a zone of rate freedom. This proceeding is closed.  
(Exam Clark)  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*
- 17** **A04-08-029 - Surjit S. Tut dba Tracy Airport Shuttle Service.**  
[4061] Surjit S. Tut is authorized to operate as a passenger stage corporation between certain cities in Alameda, Santa Clara, and San Mateo Counties, on the one hand, and San Francisco, Oakland, and San Jose International Airports, on the other hand. This proceeding is closed.  
(Exam Clark)  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*
- 18** **A04-08-030 - Rhoda Gee dba Kids Cabbie.**  
[4062] Rhoda Gee is authorized to operate as a passenger stage corporation transporting children between Union City, Newark, and Fremont, and to establish a zone of rate freedom. This proceeding is closed.  
(Exam Clark)  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*
- 19** **A04-06-028 - Alameda Corridor Transportation Authority (ACTA).**  
[4064] This decision grants the request of ACTA to modify D99-06-014 to authorize ACTA to install a Commission Standard No. 9 warning device (automatic gate-type with flashing light signals), relocate an existing Commission Standard No. 9 warning device, and install additional traffic signals at the highway-rail grade crossing along Henry Ford Avenue southwest of its intersection with Pier A Way, located in City of Los Angeles, Los Angeles County. This proceeding is closed.  
(Exam Clark)  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=183015](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=183015)
- 20** **A02-12-027 - Southern California Gas Company (SoCalGas).**  
[4067] For authority to update its gas revenue requirement and base rates. A02-12-028; I03-03-016 - Related matters. This decision grants interim rate relief by modifying D03-12-057 to extend the lives of memorandum accounts.  
(Comr Wood - ALJ Long)  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=184666](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=184666)

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Consent Agenda - Orders and Resolutions (continued)

- 21**  
[4078] **A99-04-024 - Southern California Edison Company.**  
For authority to recover capital additions to its fossil generating facilities and related substantive and procedural relief. This decision awards The Utility Reform Network \$103,741.20 for its contribution to D04-02-025.  
(Comr Lynch - ALJ DeBerry)  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=172529](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=172529)
- 22**  
[4079] **Res E-3901 - SBC Pacific Bell (SBC).**  
This resolution approves SBC's request for a deviation from California Public Utilities Code Section 320. This resolution grants the request and authorizes SBC to add approximately four and half miles of aerial optic cables along Highway 35 on existing joint poles in San Mateo County, from the intersection of Highways 92 and 35, extending south along Highway 35 to 13100 Skyline Boulevard. Highway 35 is within a county and state scenic corridor.  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=185076](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=185076)
- 23**  
[4080] **A00-03-028 - Yipes Enterprise Services, Inc., formerly known as Yipes Transmission, Inc. (Applicant).**  
This decision approves Applicant's request for a certificate of public convenience and necessity to provide full facilities-based local exchange telecommunications services. Applicant will offer last mile telecommunications service in urban areas within the San Francisco Bay Area, and within Los Angeles, Orange, and San Diego counties by constructing new fiber optic cable facilities and ancillary equipment between source facilities and structures to which service will be provided. This proceeding is closed.  
(Comr Lynch - ALJ O'Donnell)  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=185068](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=185068)
- 24**  
[4084] **A04-07-025 - Paramount Unified School District.**  
This decision grants the request of Paramount Unified School District to construct a grade-separated pedestrian overcrossing and to convert an existing private at-grade pedestrian crossing to a public limited-use at-grade pedestrian crossing at Paramount High School, located in Paramount, Los Angeles County. This proceeding is closed.  
(Exam Clark)  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=183675](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=183675)



Consent Agenda - Orders and Resolutions (continued)

**25**

**A04-05-031 - BCN Telecom, Inc. (BCN).**

[4087]

This decision grants the application of BCN, for a certificate of public convenience and necessity, to provide limited facilities-based and resold local exchange telecommunications services. This proceeding is closed.

(Comr Kennedy - ALJ Prestidge)

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=185043](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=185043)

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## Regular Agenda

### Regular Agenda - Energy Orders

**26 (Rev.)      A00-11-038 - Southern California Edison Company.**

[3899]

For authority to institute a rate stabilization plan with a rate increase and end of rate freeze tariffs. A00-11-056, A00-10-028 - Related matters. The primary purpose of this decision is to adopt a cost allocation methodology that will be applied to the revenue requirement of the California Department of Water Resources for its power purchases in 2004 and beyond.

(Comr Brown, Comr Lynch - ALJ Allen)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

Agenda 3139, Item 38 9/23/2004 (Brown);

Agenda 3140, Item 23 10/7/2004 (Wood);

Agenda 3141, Item 34 10/28/2004 (Wood);

Agenda 3142, Item 34 11/19/2004 (Staff)

11/30/2004 - This revision was not shown on the Agenda mailed to the public.

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=184805](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=184805)

**26a**

[3900]

**ALTERNATE TO ITEM 3899**

A00-11-056, A00-10-028 - Related matters. This alternate uses the ALJ's proposed decision as a starting point, but reaches a different conclusion on the appropriate percentage unavoidable cost allocation to each utility. SDG&E is allocated a slightly lower percentage than under the ALJ's decision, with the remainder of the costs split between PG&E and SCE, in the manner to which they agreed in the Settlement Agreement.

(Comr Peevey)

Agenda 3139, Item 38a 9/23/2004 (Brown);

Agenda 3140, Item 23a 10/7/2004 (Wood);

Agenda 3141, Item 34a 10/28/2004 (Wood);

Agenda 3142, Item 34a 11/19/2004 (Staff)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=180811](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=180811)

**26b**

[3905]

**ALTERNATE TO ITEM 3899**

A00-11-056, A00-10-028 - Related matters. This alternate decision adopts the same allocation methodology as the Proposed Decision. DWR's revenue requirement is the same in this alternate as in the Proposed Decision. The alternate decision departs from ALJ Allen's draft decision by describing the \$290 million in excess monies the Energy Division has identified DWR would overcollect given its current revenue requirement.

(Comr Lynch)

Agenda 3139, Item 38b 9/23/2004 (Brown);

Agenda 3140, Item 23b 10/7/2004 (Wood);

Agenda 3141, Item 34b 10/28/2004 (Wood);

Agenda 3142, Item 34b 11/19/2004 (Staff)

## Regular Agenda - Energy Orders (continued)

**26c                   ALTERNATE TO ITEM 3899**

[3906]

A00-11-056, A00-10-028 - Related matters. This alternate adopts a permanent allocation of the DWR revenue requirement by allocating the costs among utilities as follows: costs up to market level are allocated on a cost-follows-contracts basis, and above market costs are allocated on an equal cents per kilowatt-hour basis.

(Comr Brown)

Agenda 3139, Item 38c 9/23/2004 (Brown);

Agenda 3140, Item 23c 10/7/2004 (Wood);

Agenda 3141, Item 34c 10/28/2004 (Wood);

Agenda 3142, Item 34c 11/19/2004 (Staff)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=184982](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=184982)

**27**

[3928]

**R01-10-001 - Order Instituting Rulemaking to revise Commission General Order Numbers 95 and 128.**

The Commission on October 2, 2001, issued this R01-10-001 to revise General Order (GO) 95 and GO 128, which govern, respectively, the construction of overhead and underground supply and communications systems. Commission staff, industry representatives, labor organizations and the public conducted 16 months of twice-monthly two- and three-day public workshops throughout California. A total of 63 proposed revisions to existing rules were considered. Of these, 40 revisions are supported by consensus of the workshop participants; 15 were withdrawn, and 8 are in dispute. This decision adopts the consensus changes as a settlement pursuant to Rules 51, et seq., of the Rules of Practice and Procedure, notes the withdrawn proposals, and discusses and resolves the 8 disputed change proposals. Additionally, the decision adopts a plan to provide for future Commission review of GO 95 and GO 128. This proceeding is closed.

(Comr Brown - ALJ Walker)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Quasi-Legislative.*

Agenda 3141, Item 36 10/28/2004 (Staff)

## Regular Agenda - Energy Orders (continued)

**28 A02-12-027 - Southern California Gas Company (SoCalGas).**

[3936] A02-12-028, I03-03-016 - Related matters. This decision authorizes the base margin electric and gas revenue requirements for SoCalGas and San Diego Gas & Electric Company (SDG&E) in the consolidated applications for Test Year 2004 Cost of Service. The decision authorizes SoCalGas \$1,501 million in natural gas distribution revenues for Test Year 2004. The decision authorizes SDG&E \$776.097 million in electric distribution revenues and \$211.520 million in natural gas distribution revenues for Test Year 2004. It provides a reasonable level of revenue for monopoly distribution services that will in turn assure customers of safe, reliable and responsive service under conditions of prudent management, while also assuring the companies' opportunity to earn the authorized rate of return. This decision rejects proposed settlements for both applications.

(Comr Wood - ALJ Long)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

Agenda 3141, Item 38 10/28/2004 (Brown);

Agenda 3142, Item 36 11/19/2004 (Kennedy)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=184928](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=184928)

**28a ALTERNATE TO ITEM 3936**

[3937] A02-12-028, I03-03-016 - Related matters. This alternate decision also rejects proposed settlements for both applications, but would authorize a lower revenue requirement for each utility than the Proposed Decision. The differences from the Proposed Decision include different treatment of net salvage values, capitalization levels, incentive compensation, working cash, rate base and maturing workforce issues. The alternate adopts the agreement between the Greenlining Institute and the two utilities, which the Proposed Decision would reject. The alternate does not adopt the labor cost balancing account offered in the proposed decision and provides more detailed consideration of the merits of various labor forecasts.

(Comr Wood)

Agenda 3141, Item 38a 10/28/2004 (Brown);

Agenda 3142, Item 36a 11/19/2004 (Kennedy)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=180898](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=180898)

## Regular Agenda - Energy Orders (continued)

**28b ALTERNATE TO ITEM 3936**

[4029]

A02-12-028, I03-03-016 - Related matters. This alternate decision finds that the SoCalGas and SDG&E Settlements are generally reasonable in light of the whole record, consistent with the law, and in the public interest. The SoCalGas Settlement was unopposed and this alternate adopts the SoCalGas Settlement without change. The SDG&E Settlement was opposed by UCAN and the City of Chula Vista. This alternate makes two modifications to the SDG&E Settlement. This alternate disallows the Otay Mesa Pressure Betterment Project and adjusts SDG&E's portion of the San Onofre Nuclear Generating Station (SONGS) revenue to reflect the amount adopted in the Edison GRC, Decision 04-07-022, the proceeding in which the SONGS issues was litigated.

(Comr Brown)

Agenda 3142, Item 36b 11/19/2004 (Kennedy)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=184830](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=184830)

**29**

[3938]

**A04-06-018 - Pacific Gas and Electric Company (PG&E).**

This decision grants PG&E's application to modify existing experimental economic development rate, otherwise known as Schedule ED in regard to Amy's Kitchen's requirements.

(Comr Wood - ALJ Barnett)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

Agenda 3141, Item 39 10/28/2004 (Brown)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=182268](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=182268)

**29a**

[3974]

**ALTERNATE TO ITEM 3938**

This decision denies Pacific Gas and Electric Company's (PG&E's) motion for an interim decision granting rate discounts (as proposed more broadly in this application) to Amy's Kitchen, a customer that is considering relocating or expanding its food manufacturing facilities outside of California. It finds that approval of this motion would prejudge the merits of PG&E's proposed discount structure prior to considering many significant issues related to implementation of the new structure, and further finds that in terms of many issues bearing specifically on the merits of providing discounts to Amy's Kitchen, the record is deficient to support approval.

(Comr Wood)

Agenda 3141, Item 39a 10/28/2004 (Brown)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=181993](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=181993)

## Regular Agenda - Energy Orders (continued)

**30 R04-03-017 - Order Instituting Rulemaking regarding policies, procedures and incentives for distributed generation and distributed energy resources.**  
[3975]

This decision adopts modifications to the Self Generation Incentive Program (SGIP), which provides incentives to businesses and individuals who invest in distributed generation. The Commission implements the provisions of Assembly Bill 1685, increases the annual SGIP budget to \$300 million through 2007, eliminates the maximum percentage payment limits, and reduces the incentive payment for Level 1 projects to \$3.00 per watt. The Commission retains the San Diego Regional Energy Office as a non-utility program administrator through 2007. The decision directs the SGIP program administrators to expand opportunities for public participation in three Working Group activities: developing a declining rebate schedule, an exit strategy, and a data release format.

(Comr Peevey - ALJ Malcolm)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Quasi-Legislative.*

Agenda 3142, Item 38 11/19/2004 (Staff)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=184842](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=184842)

**31 C04-08-011 - Eric Little vs. San Diego Gas & Electric Company.**  
[3978]

This decision confirms the Assigned Commissioner and Administrative Law Judge's Ruling issuing Temporary Restraining Order, dated October 15, 2004.

(Comr Brown - ALJ Simon)

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Adjudicatory.*

Agenda 3141, Item 40 10/28/2004 (Staff);

Agenda 3142, Item 39 11/19/2004 (Staff)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=184540](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=184540)

**32 A02-05-046 - Southern California Edison Company (Edison).**  
[3992]

This decision authorizes Edison to make necessary and appropriate expenditures on the Mohave Generating Station (Mohave), for critical path investments required by the 1999 Consent Decree to allow Mohave to continue operations post year-end 2005, to continue working on resolution of the essential water and coal issues including the funding of the C-Aquifer feasibility and environmental studies, to convene a working group to study options to replace Edison's share of Mohave power if it can not continue as a coal-fired plant, and to establish a Mohave Employee-Related Memorandum Account to track worker protection benefit expenses incurred before January 1, 2006, associated with the temporary shut-down of Mohave at the end of 2005. This proceeding is closed.

(Comr Lynch - ALJ Brown)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

Agenda 3142, Item 42 11/19/2004 (Staff)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=184726](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=184726)

## Regular Agenda - Energy Orders (continued)

**33** **R03-10-003 - Order Instituting Rulemaking to implement portions of AB 117 concerning**  
[4008] **Community Choice Aggregation.**

This order resolves outstanding issues in Phase 1 of this proceeding, which addresses costs that would be imposed on Community Choice Aggregators (CCA) in order to implement the provisions of Assembly Bill 117 and enable CCAs to procure power for their local residents and businesses.

(Comr Peevey - ALJ Malcolm)

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=183094](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=183094)

**34** **A00-07-013 - Pacific Gas and Electric Company (Applicant).**  
[4013]

This decision grants an all-party motion for settlement. Of Applicant's initial request for \$116 million, Applicant (a) recovers \$80 million, (b) commits to reduce rate base by about \$30 million on January 1, 2007, and (c) agrees to remove all tariff language relating to the Electric Restructuring Cost Account. Adoption of this settlement creates no approvals or precedents with respect to any principle or issue in this or any future proceeding. This proceeding is closed.

(Comr Wood - ALJ Mattson)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=184785](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=184785)

**35 (Rev.)** **A04-01-031 - Southern California Edison Company (SCE).**  
[4014]

This decision authorizes SCE to increase its gas distribution base rate revenue requirement in Santa Catalina Island (Catalina) by \$984,500 to be phased in over a three-year period beginning in 2005. This equates to a 39.4% increase in 2005, a 28.2% increase in 2006, and a 22.0% increase in 2007 in authorized gas distribution expenses. SCE had sought an increase in base rate revenues of \$430,000 to \$1,157,482 in 2005 (an increase of 169% over the current rate), or \$1,648,000 if phased in over four years (an increase that would total 283% over current base rate revenues by the year 2008). The proposed increases are large because this is the first gas distribution rate increase that SCE has sought in Catalina in 17 years and because SCE is in the process of replacing its 30-year old gas plant in Catalina. This proceeding is closed.

(Comr Lynch - ALJ Walker)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

11/30/2004 - This revision was not shown on the Agenda mailed to the public.

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=184590](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=184590)

## Regular Agenda - Energy Orders (continued)

**35a ALTERNATE TO ITEM 4014**

[4016]

This alternate differs from the proposed decision in only one respect. The ALJ's decision, while finding that the Commission has jurisdiction in this case, questions whether the Commission will have rate jurisdiction in the future without a change in legislation. This alternate determines that the Commission will continue to have gas rate jurisdiction at Catalina Island because of the unique monopoly there, and because the new gas plant retains the capability to switch its gas mixture on short notice.

(Comr Lynch)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=184899](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=184899)

**36**

[4023]

**R01-08-028 - Order Instituting Rulemaking to examine the Commission's future energy efficiency policies, administration, and programs.**

This decision grants the joint petition to modify D03-12-060 filed on October 7, 2004 by San Diego Gas and Electric Company (SDG&E), Southern California Gas Company (SoCalGas) and Pacific Gas and Electric Company (PG&E). The joint Petition seeks authority for each utility to increase spending on natural gas energy efficiency programs funded by existing natural gas public purpose program surcharges. This decision grants increased funding for natural gas energy efficiency programs in the amount of \$7.96 million for PG&E, \$1.362 million for SDG&E, and \$10.433 million for SoCalGas.

(Comr Kennedy - ALJ Malcolm)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Quasi-Legislative.*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=184878](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=184878)

**37**

[4088]

**A03-12-039 - Pacific Gas and Electric Company (PG&E).**

This decision approves the application of PG&E for a permit to construct a 115 kilovolt electric transmission line and associated substation modifications in the City and County of San Francisco. The line will run underground from the Hunters Point Power Plant (HPPP) to the Potrero Power Plant. Moreover, this decision finds that any environmental impact the line creates can be mitigated. Thus, this decision approves PG&E's application, subject to the environmental mitigation requirements set forth in the Commission's Final Mitigated Negative Declaration. This proceeding is closed.

(Comr Brown - ALJ Thomas)

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=184955](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=184955)



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**Regular Agenda - Energy Resolutions and Written Reports**

- 38**  
[3955] **Res E-3878 - San Diego Gas & Electric Company (SDG&E).**  
SDG&E seeks approval of its 2003 quarterly procurement transaction filings demonstrating that power procurement activities executed during the period January 1 through December 31, 2003 were in compliance with the guidelines set forth in its Short-Term Procurement Plan filed with the Commission on November 15, 2002. (Advice Letter (AL) 1493-E, filed May 1, 2003; AL 1513-E, filed July 22, 2003, AL 1536-E, filed October 30, 2003; AL 1560-E, filed January 30, 2004)  
Agenda 3142, Item 46 11/19/2004 (Staff)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=181779](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=181779)
- 39**  
[3956] **Res E-3889 - Pacific Gas and Electric Company (PG&E).**  
PG&E seeks approval of its 2003 quarterly short-term procurement transaction compliance filings demonstrating that power procurement activities during the record period January 1 through December 31, 2003 were in conformance with the guidelines set forth in its Commission-approved Short-Term Procurement Plan filed with the Commission on November 12, 2002. (Advice Letter (AL) 2377-E, filed May 1, 2003; AL 2402-E, filed July 15, 2003; AL 2434-E, filed October 30, 2003; AL 2469-E, filed January 30, 2003; and Supplemental AL 2469-E-A, filed March 16, 2004)  
Agenda 3142, Item 47 11/19/2004 (Staff)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=181775](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=181775)
- 40**  
[4097] **Res E-3902 - Southern California Edison Company (Edison) and California Independent System Operator (CISO).**  
Edison and CISO submit a Revised Local Area Reliability Procurement Proposal developed pursuant to D04-07-028. Approved with modifications. (Advice Letter 1832-E, filed October 22, 2004)

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**Regular Agenda - Telecommunication Orders**

- 41**  
[3973]      **A01-12-013 - Blue Ridge Telecom Systems, LLC (Blue Ridge).**  
This decision grants a certificate of public convenience and necessity to Blue Ridge authorizing it to offer limited facilities-based and resold local exchange services.  
The decision here is related to settlement in an investigation involving a Blue Ridge affiliate, NOS Communications, Inc. (NOS), that the Commission conditionally approved in D04-06-017.  
The instant decision finds on the basis of the application, a supplement filed in June 2004 and a brief hearing held in July 2004, that Blue Ridge is qualified to offer the proposed local exchange services, and that allegations against NOS of misleading practices in its marketing of long distance service are unlikely to recur with respect to Blue Ridge.  
This proceeding is closed.  
(Comr Peevey - ALJ McKenzie)  
*Pub. Util. Code § 311 – This item was mailed for Public Comment.*  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*  
Agenda 3142, Item 53 11/19/2004 (Staff)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=184715](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=184715)
- 42**  
[4003]      **R03-08-018 - Order Instituting Rulemaking to review policies concerning intrastate carrier access charges.**  
This order resolves several policy questions with regard to intrastate access charges, their levels and impact on California long distance markets. Specifically, the order finds that if the Commission reduces access charge for local exchange companies, the Commission should compensate the utilities for their associated loss in revenues by increasing other rates. The order also finds that the access charges of all carriers, including long distance companies and small and mid-sized companies, should be reviewed to assure they are not artificially high.  
(Comr Peevey - ALJ Malcolm)  
*Pub. Util. Code § 311 – This item was mailed for Public Comment.*  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=184911](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=184911)
- 43**  
[4017]      **R95-04-043 - Order Instituting Rulemaking on the Commission's own motion into competition for local exchange service.**  
I95-04-044 - Related matters. This decision adopts statewide rules governing how code and number-block holders are to determine their six-month inventory of numbering resources based upon historical utilization.  
These rules are adopted to promote more efficient utilization of numbering resources.  
(Comr Lynch - ALJ Pulsifer)  
*Pub. Util. Code § 311 – This item was mailed for Public Comment.*  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=184659](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=184659)

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Regular Agenda - Telecommunication Orders (continued)

**44**

[4075]

**R\_\_\_\_\_ - Order Instituting Rulemaking into implementation of Federal Communications Commission Report and Order 04-87, as it affects the Universal Lifeline Telephone Service program.**

This decision initiates a rulemaking into implementation of Federal Communications Commission Report and Order 04-87, as it affects the Universal Lifeline Telephone Service Program.

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=184840](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=184840)

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## Regular Agenda - Telecommunication Resolutions and Reports

**45**

**Res T-16901**

[4024]

This resolution authorizes and requires all certified telecommunication carriers to file tariffs with the Commission to concur with SBC California tariffs for publication of telecommunications all-end-user surcharges and Commission's user fee.

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=185122](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=185122)

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**Regular Agenda - Water/Sewer Orders****46**

[3789]

**R97-10-049 - Commission Order Instituting Rulemaking on the Commission's own motion to set rules and to provide guidelines for the privatization and excess capacity as it relates to investor owned water companies.**

This decision denies the petition of the California Water Association to modify D03-04-028. This proceeding is closed.

(Comr Kennedy - ALJ Bushey)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

Agenda 3138, Item 41 9/2/2004 (Kennedy);

Agenda 3140, Item 31 10/7/2004 (Peevey);

Agenda 3141, Item 48 10/28/2004 (Peevey);

Agenda 3142, Item 55 11/19/2004 (Staff)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=183753](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=183753)

**46a**

[4006]

**ALTERNATE TO ITEM 3789**

This alternate accepts in part, and denies in part the petition of the California Water Association to modify and/or clarify D03-04-028. This proceeding is closed.

(Comr Peevey)

Agenda 3142, Item 55a 11/19/2004 (Staff)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=183973](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=183973)

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## **Regular Agenda - Commissioner's Reports**

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**Regular Agenda - Management Reports and Resolutions**

## Closed Session

*This notice is furnished under Government Code Sections 11125 and 11126.3. The Commission will meet in Closed Session following the Public Session of its regularly scheduled meeting. In the Closed Session, the Commission may consider personnel matters as provided under Government Code Section 11126(a), institution of proceedings or disciplinary actions against any person or entity under the jurisdiction of the Commission as provided under Government Code Sections 11126(d)(2) and 11126(e)(2)(C)(i), and pending litigation as provided under Government Code Section 11126(e). Additional items may be added to the closed session agenda pursuant to Gov. Code Section 11126.3(d). If in Closed Session the Commission votes to appoint, employ, or dismiss a public employee, the Commission will thereafter reconvene in Open Session to make the disclosures required by Government Code Sections 11125.2 and 11126.3(f).*

### Closed Session - Non-Federal

- 47**                    **Conference with Legal Counsel - Applications for Rehearing**  
 [3996]                Compilation of applications for rehearing recently filed with the Commission.  
                          *Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session.*
- 48**                    **C98-04-004 - Conference with Legal Counsel - Application for Rehearing**  
 [3601]                C98-06-003; C98-06-027; C98-06-049; I90-02-047 - Related matters. Disposition of  
                          Applications for Rehearing of D03-11-021 filed by The Latino Issues Forum (LIF), The Utility Reform  
                          Network, and SBC California. On November 13, 2003, the Commission issued D03-11-021,  
                          awarding intervenor compensation to The Greenlining Institute and LIF for its contribution to  
                          D01-09-058.  
                          *Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session.*  
                          Agenda 3136, Item 97 7/8/2004 (Staff);  
                          Agenda 3137, Item 97 8/19/2004 (Staff);  
                          Agenda 3138, Item 48 9/2/2004 (Staff);  
                          Agenda 3139, Item 53 9/23/2004 (Staff);  
                          Agenda 3141, Item 53 10/28/2004 (Staff);  
                          Agenda 3142, Item 60 11/19/2004 (Staff)



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Closed Session - Non-Federal (continued)

- 49**  
[3895]      **R03-09-006 - Conference with Legal Counsel – Application for Rehearing**  
Disposition of the application for rehearing of D04-04-038 filed by AT&T Wireless Services of California, LLC, Pacific Bell Wireless, LLC dba Cingular Wireless, Nextell of California, Inc, Sprint Spectrum L.P. dba Sprint, Omnipoint Communications, Inc. dba T-Mobile, and Verizon Wireless (collectively 'Wireless Carriers'). D04-04-038 resolved petitions to modify R03-09-006 and motions that sought to change the named respondents to this proceeding. D04-04-038 also granted motions for confidentiality filed by several utilities.  
*Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session.*  
Agenda 3139, Item 59 9/23/2004 (Staff);  
Agenda 3140, Item 39 10/7/2004 (Peevey);  
Agenda 3141, Item 55 10/28/2004 (Staff);  
Agenda 3142, Item 62 11/19/2004 (Lynch)
- 50**  
[3965]      **R01-09-001 - Conference with Legal Counsel – Application for Rehearing**  
I01-09-002 - Related matters. Disposition of Application for Rehearing of D04-07-036 and Motion For Stay Of Ordering Paragraph 14 of D04-07-036, filed by SBC California. On July 8, 2004, the Commission issued D04-07-036 granting limited rehearing of D03-10-088, an interim opinion regarding NRF Phase 2B Service Quality issues in regard to the former Pacific Bell (now SBC California) and Verizon.  
*Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session.*  
Agenda 3141, Item 56 10/28/2004 (Staff);  
Agenda 3142, Item 63 11/19/2004 (Staff)
- 51**  
[3966]      **C03-05-023 - Conference with Legal Counsel – Application for Rehearing**  
Disposes of the application for rehearing of D04-05-006 filed by Raw Bandwidth Communications, Inc. D04-05-006 determined that SBC California and SBC Advanced Solutions, Inc. did not unreasonably discriminate or violate applicable law by connecting SBC Information Services (SBCIS) customers who dial 611 for digital subscriber line repair services to SBCIS, while telling customers of unaffiliated internet service providers (ISP) to hang up and call their ISP.  
*Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session.*  
Agenda 3141, Item 57 10/28/2004 (Lynch);  
Agenda 3142, Item 64 11/19/2004 (Staff)

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Closed Session - Non-Federal (continued)**52                    A02-11-044 - Conference with Legal Counsel – Application for Rehearing**

[3979]

Disposition of Applications for Rehearing of D04-07-034 filed by the Office of Ratepayer Advocates, City of Fontana and the Fontana Unified School District. D04-07-034 authorizes a rate increase for the San Gabriel Valley Water Company (San Gabriel), Fontana Water Company Division. Among other things, the decision removes \$2.6 million from the ratebase, finding that is the amount of money the County of San Bernardino reimbursed San Gabriel for its water treatment facility, Plant F-10. The decision also finds that the Fontana Division is experiencing growth that is expected to continue and that it was barely able to meet its 2003 summer peak-day demand following four years of drought and closure of various contaminated wells. Further, the decision finds that it is not reasonable to defer addition for new plant in the Fontana Division until outside funding for contamination cleanup becomes available and finds that the utility has justified its proposed construction program including plans for needed plant additions that would increase its rate base at a rate of 10% per year. The decision advises that the utility to open a water quality memorandum account for any reimbursements from polluters or proceeds ultimately received. The decision permits the utility to purchase land for its new office building but requires it to defer building the new office building at this time. Because the utility has not, in the past, hired new personnel when funded to do so, the decision requires it to file an advice letter for inclusion of the costs of each new position authorized by it. In addition, the decision finds that that the utility's executive salaries are not unreasonable.

*Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session.*

*Gov. Code § 11126.3(d), allows this item to be considered in Closed Session.*

**53                    A04-08-009 - Conference with Legal Counsel – Application for Rehearing**

[4028]

Disposition of application for rehearing of Resolution E-3831, filed by Pacific Gas and Electric Company, Southern California Edison Company, Energy Producers and Users Coalition, Kimberly Clark Corporation, and Goodrich Aerostructures Group. In Resolution E-3831, the Commission implemented the cost responsibility surcharge for customer generation departing load, as mandated by D03-04-030, as modified by D03-04-041.

*Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session.*

**Closed Session - Initiation of Litigation - Non-Federal**

Consideration of possible Commission initiation of, or intervention in, litigation.

*Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session.*

**Closed Session - Threatened Litigation - Non-Federal**

Significant exposure to litigation

*Gov. Code § 11126(e)(2)(B), allows this item to be considered in Closed Session*

### **Closed Session - Personnel Matters**

Consideration of appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee.

*Gov. Code § 11126(a), allows this item to be considered in Closed Session*

### **Closed Session - Threatened Litigation - Federal**

Significant exposure to litigation in federal agency or court proceedings.

*Gov. Code § 11126(e)(2)(B), allows this item to be considered in Closed Session*

**Closed Session - Initiation of Litigation - Federal**

Consideration of possible Commission initiation of, or intervention in, federal agency or court proceedings.

*Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session.*

**54**

[4094]

**FERC Docket No. ER05-138 - Initiation of Litigation - Federal**

Reliant Energy Etiwanda, Inc., FERC Docket No. ER05-138

*Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session.*

**55**

[4095]

**FERC Docket No. ER05-115 - Initiation of Litigation - Federal**

Duke Energy Oakland, FERC Docket No. ER05-115

*Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session.*

**56**

[4096]

**FERC Docket No. ER05-44 - Initiation of Litigation – Federal**

Williams Power Company, Inc., FERC Docket No. ER05-44

*Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session.*

**Closed Session - Federal**

- 57**  
[3997]      **Case Nos. C 04-00580 VRW (Bankruptcy Case No. 01 30923 DM) - Conference with Legal Counsel - Existing Litigation**  
Loretta Lynch vs. California Public Utilities Commission, Pacific Gas and Electric Company (Debtor), U.S. District Court for the Northern District of California, Case No. C 04-00580 VRW; Pacific Gas and Electric Company (Debtor), United States Bankruptcy Court, Northern District of California, San Francisco Division, Case No. 01 30923 DM.  
*Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session.*
- 58**  
[4092]      **FERC Docket No. ER04-835 - Conference with Legal Counsel - Existing Litigation**  
California Independent System Operator Corporation, FERC Docket No. ER04-835.  
*Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session.*
- 59**  
[4093]      **FERC Docket No. ER04-308 - Conference with Legal Counsel – Existing Litigation**  
Cabrillo Power I, LLC and Cabrillo Power, II, LLC, FERC Docket No. ER04-308.  
*Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session.*
- 60 (Rev.)**  
[4108]      **Adversary Proceeding No. 03-04316 (ALG) - Conference with Legal Counsel - Existing Litigation**  
The Official Committee of Unsecured Creditors of 360Networks, Inc. ('Committee') v. CPUC, Adversary Proceeding No. 03-04316 (ALG), U.S. Bankruptcy Court, Southern District of New York. This matter is added to the Agenda pursuant to Government Code sections 11125.3(a)(2) and 11126(e)(2)(A).  
*Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session.*  
*Gov. Code § 11125.3(a)(2), allows this item to be considered in Closed Session.*  
11/29/2004 - This revision was not shown on the Agenda mailed to the public.  
11/29/2004 - This item was not listed on the agenda distributed to the public.



**Closed Session - FERC Docket No. EL00-95-000**

Conference with Legal Counsel - Existing Litigation; San Diego Gas & Electric Co., EL00-95-000

*Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session.*